IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 1764 of 2004

Between:

P.Narasimhulu, S/o.Yanadaiah, Fair Price Shop Dealer, Kacheri Devarayapalli Village, Anantasagaram Mandal, Nellore district.

..... PETITIONER

AND

1 District collector, Nellore.
2 Joint Collector, Nellore
3 Revenue Divisional Officer, Nellore
4 Mandal Revenue Officer, Anantasagaram, Nellore District.

5. Modem Subbarayudu, s/o.Ramaiah, Agriculturist.

6. Beduduri Ramanaiah, s/jo.Venkata Narasaiah, Agriculturist

7. Gotla Henna Kondaiah, s/o.Mallem Kondaiah, Agriculturist

8. Ponna Vengataiah, s/o.Penchalaiah, Agriculturist.

9. Eranapu venkata Subbaiah, s/o.Chinnaiah, Agriculturist

(RR 5 to 9 are residents of Kacheri Devarayapalli Village & Post,

Anantasagaram Mandal, Nellore District.)

(RR 5 to 9 are impleaded as per Court order dated 6.7.2004 in

W.P.M.P.No.5476/04)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings of the 2nd respondent in Rc.E.173/2003 dated 28.9.2003 bifurcating the Petitioner's Fair Price Shop of Kacheri Devarayapalli consisting of 423 cards into two shops, by creating a Kacheri Devarayapalli shop No.2 with 181 cards and the consequential Notification issued by the 3rd respondent vide Rc.C.1070/2002 dated 24.11.2003 in so far as it relates to Item No.13. i.e. Kacheri Devarayapalli-2 is concerned, are illegal, arbitrary, contrary to the Circular CCS.Ref.No.PDS.II (3) 191/96 dated 24.2.1996, and also contrary to the guidelines for opening new Fair Price Shops issued vide Govt.Memo No.148/CS/1/99-1 dated 22.1.1999 and set aside the same.

Counsel for the Petitioner: MR.V.SUDHAKAR REDDY

Counsel for the Respondent Nos.1 to 4: GP FOR CIVIL SUPPLIES

Counsel for the Respondent Nos.5 to 9: Mr.P.Sridhar Reddy

The Court made the following:

ORDER:

The petitioner is the permanent Fair Price Shop dealer at Kacheri Devarayapalli Village, Anantasagaram Mandal, Nellore District. It is stated that 423 cardholders are attached to the said Fair Price Shop for distributing the essential commodities. While so, proposals were

sent by the Revenue Divisional Officer, Nellore for bifurcation of the said shop and, accordingly, the Joint Collector, Nellore, vide his order dated 28.9.2003 accepted the proposals and directed the 3rd respondent to take further action in the matter for bifurcation of the said shop and create a new Fair Price Shop with 181 cardholders. Accordingly, the shop was bifurcated and applications were called for the allotment of the Fair Price Shop on permanent basis vide notification dated 24.11.2003. As many as 14 shops are sought to be allotted on permanent basis by reserving certain shops in favour of Women, S.C., S.T. and B.C., etc. The shop in respect of Kacheri Devarayapalli, Anantasagaram Mandal is figured at Serial No.13.

The learned counsel for the petitioner submits that the bifurcation of the said shop is contrary to the guidelines issued by the Government from time to time and, therefore, the action of the respondents in issuing notification calling for the applications is illegal and arbitrary.

On the other hand, the learned Government Pleader for Civil Supplies as well as the learned counsel appearing on behalf of the unofficial respondents, who have been impleaded, submit that as per the judgment of the Supreme Court reported in *District Collector & another v. B.Suresh* the existing Fair Price Shop dealer has no right to hear before the said bifurcation or in reducing the cards in respect of the shop and no prior notice is required to be issued. It is further stated that against the said notification calling for applications from the eligible candidates for allotment of Fair Price Shops, several persons filed applications including the unofficial respondents in the writ petition and in that connection the writ petitioner has filed a revision before the District Collector, Nellore against the order of the Joint Collector and the said revision is pending. The said averment has not been denied by way of reply by the writ petitioner.

In view of the facts and circumstances of the case whether the bifurcation of the said Fair Price Shop is contrary to the guidelines, has to be agitated in the pending revision before the District Collector and it is not open for the writ petitioner to avail parallel proceedings

before the District Collector as well as this Court by way of writ petition.

The writ petition is, accordingly, dismissed with liberty to the petitioner to pursue his rights in the pending revision before the first respondent. No order as to costs.

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(V.ESWARAIAH, J.)

5.4.2005

Note: Issue copy within one week.

B.O.

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To

1 District collector, Nellore.
2 Joint Collector, Nellore
3 Revenue Divisional Officer, Nellore
4 Mandal Revenue Officer, Anantasagaram, Nellore District.

5. 2 copies to the Govt. Pleader for Civil Supplies, High Court buildings,

Hyderabad.

6. 2 C.D. copies